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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,314	11/20/2000	Mark Saliterman	13432.1US01	8681

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EXAMINER

GRIER, LAURA A

ART UNIT PAPER NUMBER

2644

13

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/716,314

Applicant(s)

SALITERMAN, MARK

Examiner

Laura A Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 15-19 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 9, 13, 14, 20 and 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because line 1 recites, "disclosed" and line 2 recites, "invention". Correction is required. See MPEP § 608.01(b).

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. **Claims 11-8, 10-11, 15-19, and 21-23** are rejected under 35 U.S.C. 102(e) as being anticipated by Ogden, U. S. Patent No. 6064860.

Regarding **claims 1 and 10**, Ogden discloses a wireless transmission and reception system (col. 3, lines 66-67 and col. 4, lines 1-26). Ogden's disclosure comprises a parabolic dish for receiving audio signals generated from verbal interaction during a sporting event within an arena, stadium, etc., which constitutes collecting an acoustic audio signal; a mixing console, which reads on a conditioning means, and a transmitter for transmitting the audio signal to individual spectators at a sporting event wherein the audio signal is received by wireless headphones, which constitutes transmitting a conditioned signal to an earpiece of at least one of a plurality of individuals in a fixed environment.

Regarding **claims 2-5**, Ogden discloses everything claimed as applied above (see claim 1). Further, Ogden provides support of the collection of the audio signal being collected in a fixed space of a football stadium (figure 1), and provides inherent support of the collection of the audio signal being collected in a fixed space of a basketball arena, a hockey arena, and a baseball stadium as evident by fact that the audio transmission and reception system may be used in at any or various sporting events (col. 4, lines 10-13).

Regarding **claim 6**, Ogden discloses everything claimed as applied above (see claim 1). Further, Ogden provides a parabolic dish comprising a microphone, which constitutes the collecting the acoustic audio signal using a parabolic microphone (col. 4, lines 53-65).

Regarding **claim 7**, Ogden discloses everything claimed as applied above (see claim 1). Further, Ogden provides in figure 5 collecting the acoustic audio at more than one location within a fixed space.

Regarding **claim 8**, Ogden discloses everything claimed as applied above (see claim 7). Further, Ogden provides support of the claimed limitation as supported in col. 4 lines 15-25.

Regarding **claims 11 and 21-22**, Ogden discloses a wireless transmission and reception system (col. 3, lines 66-67 and col. 4, lines 1-26 and figure 5). Ogden's disclosure comprises a parabolic dish for receiving audio signals generated from verbal interaction during a sporting event within an arena, stadium, etc., which constitutes collecting an acoustic audio signal; a mixing console, which reads on a conditioning means, and a transmitter for transmitting the audio signal to individual spectators at a sporting event wherein the audio signal is received by wireless headphones, which constitutes transmitting a conditioned signal to an earpiece of at least one of a plurality of individuals in a fixed environment, wherein transmission takes place based upon a transmission protocol.

Regarding **claim 15**, Ogden discloses everything claimed as applied above (see claim 11). Further, Ogden provides support of the claimed limitation as supported in col. 4 lines 15-25, where a user can select between the AM or FM broadcast of the event.

Regarding **claims 16 and 18-19**, Ogden discloses a wireless transmission and reception system (col. 3, lines 66-67 and col. 4, lines 1-26). Ogden's disclosure comprises a parabolic dish for receiving audio signals generated from verbal interaction during a sporting event within an arena, stadium, etc., which constitutes collecting an acoustic audio signal; a mixing console, which reads on a conditioning means, and a transmitter for transmitting the audio signal to

individual spectators at a sporting event wherein the audio signal is received by wireless headphones, which constitutes transmitting a conditioned signal to an earpiece of at least one of a plurality of individuals in a fixed environment, wherein transmission takes place based upon a transmission protocol. Further Ogden discloses providing the system for sale by the public (col. 2, lines 58-65), which reads on receiving a fee.

Regarding **claim 17**, Ogden discloses everything claimed as applied above (see claim 16). Further, Ogden provides support of the claimed limitation as supported in col. 4 lines 15-25, where a user can select between the AM or FM broadcast of the event.

Regarding **claim 23**, Ogden discloses everything claimed as applied above (see claim 1). Further, Ogden provides a parabolic dish comprising a microphone, which constitutes the collecting the acoustic audio signal using a parabolic microphone (col. 4, lines 53-65 and figure 5).

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1, 11 and 21-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Williams Sound Corp.

Regarding **claims 1, 11, and 21-22**, Williams Sound Corp. discloses a Pro Wide-band System (herein, Williams Classic) comprising a transmitter for transmitting an audio signal provided to the transmitter via an existing sound system or a microphone, wherein the audio can be subjected to frequency switching comfortable among a plurality of channels, further Williams discloses the transmitter being capable of being used with a receiver including mini earphones,

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wherein the audio is received by a plurality individuals in various environments of public access such as, cinemas, church, auditoriums, classroom, parks, etc.; which is indicative of a collecting an acoustic audio signal, conditioning the signal and transmitting it to at least one person in a fixed environment.

6. **Claims 1, 10-11 and 21-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Williams Sound Corp.

Regarding **claims 1, 11, and 21-22**, Williams Sound Corp. discloses a Personal PA Value Pack System (herein, Williams Sound) comprising a transmitter for transmitting an broadcast audio signal provided to the transmitter via an existing sound system or a microphone, wherein the audio can be subjected to frequency switching comfortable among a plurality of channels, further Williams discloses the transmitter being capable of being used with a receiver including mini earphones, wherein the audio is received by a plurality individuals in various environments of public access such as, cinemas, church, auditoriums, classroom, parks, etc.; which is indicative of a collecting an acoustic audio signal, conditioning the signal and transmitting it to at least one person in a fixed environment, and further having particular transmission protocol in respect to the different frequencies.

Regarding **claim 11**, Williams Sound discloses everything claimed as applied above (see claim 1). Williams Sound further discloses that the devices operate on a wide range to accommodate any number of listeners, thus it provide inherent support of the transmission frequency protocol uniquely suited with a particular event.

*Allowable Subject Matter*

7. Claims 9, 13-14, 20, and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

8. Applicant's arguments filed 03/05/04 have been fully considered but they are not persuasive.

The applicant arguments basically on pages 8-10 refer to the limitation reciting "a transmission protocol uniquely associated with a particular event". The arguments indicate that the limitation is being inherently disclosed in view of the examiner's Response to Arguments in the last office action. For the purpose of the actual rejection the term "inherent" was not cited in the rejection of the invention. In view of a better choice of words, the examiner re-emphasizes the teaching of the claimed limitation was taught by Williams Sound by the fact that Williams Sound discloses the use of its device based upon various frequency channels, which can be used or referred to as transmission protocol uniquely associated with a particular event, based upon with the frequency required to for that channel to transmit an adequate signal. Thus, the claim language of the claim does not limit the type of or define "transmission protocol", to overcome the teachings of the different frequencies for accommodating a particular channel as a transmission protocol. Thus, the actual rejection provided does not rely on inherency to teach a transmission protocol. On page 10, the applicant arguments are based upon the selling of the earphone in exchange for money in a fixed space. Ogden disclose that his system may be sold,



which includes the ear piece. Further, the claim language of the claim in respect the term “fixed space” fails to limits a definite meaning of a fixed space or specifically claim “only a fixed space”, likewise, the claim language regarding the selling of the earpiece in exchange for money, fails to limit the how the earpiece is purchased, such as, is the earpiece sold individual or a part of a system. With either method, the earpiece assumingly is exchanged for money, which constitutes a business method. Thus, the rejection is maintained.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**Or faxed to:**

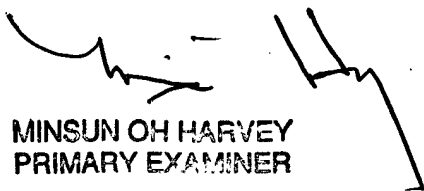
**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

LAG

May 5, 2004

  
MINSUN OH HARVEY  
PRIMARY EXAMINER